

REMARKS

Upon entry of the present amendment, a new title will have been submitted and claims 1, 11, 13, 17 and 19-21 will have been amended. Additionally, an executed Terminal Disclaimer will have been submitted for entry into the present application.

In view of the herein contained amendments, remarks and Terminal Disclaimer, Applicant respectfully requests reconsideration of each outstanding objection and rejections set forth in the above-mentioned Official Action. Such action is respectfully requested and is now believed to be appropriate and proper.

Initially, Applicant wishes to respectfully thank the Examiner for acknowledging his Claim for Foreign Priority under 35 U.S.C. § 119 as well as for confirming receipt of the copy of the priority document upon which the above-noted Claim for Priority is based. Applicant further thanks the Examiner for considering the documents cited in the Information Disclosure Statement filed in the present application on April 22, 2002.

Additionally, Applicant notes that the Examiner did not indicate whether the drawings filed together with the present application were accepted or were objected to by the Examiner. In the absence of any explicit objection to the drawings set forth in the body of the Official Action, Applicant assumes that the drawings were accepted. Nevertheless, Applicant would sincerely appreciate the Examiner's explicit indication to such effect.

Turning to the merits of the Official Action, the Examiner objected to the title as not being descriptive and required a new title that is clearly indicative of the invention to which the claims are directed. By the present Response, Applicant has amended the title of the present application to overcome the basis for the Examiner's objection. In

particular, the new title is clearly indicative of the invention to which the claims are directed.

In the outstanding Official Action, the Examiner objected to claims 11, 13, 17 and 19-21 because of an informality. By the present Response, Applicant has amended the claims to eliminate the noted informality. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection to the claims.

In the outstanding Official Action, the Examiner provisionally rejected claims 1, 2 and 4-19 under the judicially created doctrine of obviousness type double patenting as unpatentable over claims 2, 3 and 5-20 of co-pending Application No. 10/043,318.

In this regard, the Examiner noted that the claims are not identical but that the claims of the published application comprise more features than the present claims. The Examiner, however, asserted that this difference in claim limitations does not render the inventions patentably distinct. The Examiner asserted that it would be obvious to one of ordinary skill in the art to modify the claimed features of the printed application to have fewer features in order to make a simpler embodiment and reduce cost and/or size.

The Examiner further provisionally rejected claim 22 under the judicially created doctrine of obviousness type double patenting as unpatentable over claim 3 of co-pending Application No. 10/043,318. While the Examiner again admitted that the claims of the published application include more features than the claims of the present invention, the Examiner asserted that it would have been obvious to one of ordinary skill in the art to modify the claims of the published application to have fewer features in order to make a simpler embodiment, reduce costs and/or size.

Again, the Examiner has not pointed out any basis in logic or law for eliminating the numerous recitations of U.S. Patent Application No. 10/043,318 that it would be necessary to eliminate to arrive at the features of claim 22. Moreover, in the rejection, the Examiner refers to the disclosure of the above-noted U.S. application. However, it is not the disclosure that can be utilized in a judicially created doctrine of obviousness type double patenting rejection but the claimed subject matter thereof. The Examiner has given no basis, aside from his unsupported conclusion of obviousness, for eliminating the various features that it is necessary to eliminate in order to arrive at the claimed features of Applicant's claim 22. For these reasons, it is respectfully submitted that claim 22 is clearly allowable over the claimed subject matter of U.S. Patent Application No. 10/043,318.

The Examiner indicated claim 23 to be allowable and objected to claims 3, 20 and 21 for being dependent upon a rejected base claim. However, the Examiner indicated that these claims would be allowable if rewritten into independent form including all the limitations of the base claim and any intervening claims.

Applicant notes the Examiner's indication of allowable subject matter as well as the Examiner's indication of the allowability of claim 23 with appreciation. However, Applicant respectfully submits that all the other claims in the present application are also in condition for allowance and respectfully requests an indication to such effect in due course.

Regarding the Examiner's reasons for the indication of allowable subject matter with respect to claim 23, while Applicant does not disagree with the features noted by the Examiner, Applicant respectfully submits that each of the claims in the present

application (including claim 23) defines a particular combination of features and that the patentability of each claim is also based upon the totality of the features recited therein. Accordingly, Applicant submits that the reasons for indication of allowable subject matter should not be limited to those features enumerated by the Examiner.

Applicant respectfully traverses the Examiner's double patenting rejections and submits that they are inappropriate. In this regard, Applicant notes that while the Examiner has essentially asserted that it would be obvious to eliminate a feature from the published application, the Examiner has provided no basis that such elimination of feature will result in an operative or useful device. In fact, the Examiner has set forth no motivation for the proposed modification but has merely asserted the ultimate conclusion (i.e., it would be obvious). The Examiner has provided no evidentiary basis supporting his conclusion of obviousness. Accordingly, for this reason alone, the Examiner's rejections are inappropriate.

Nevertheless, and merely in order to eliminate the Examiner's rejections, Applicant has submitted an executed Terminal Disclaimer in the present application. By the submission of the executed Terminal Disclaimer in the present application, neither Applicant nor the Assignee make any representation that, in the absence of the filing of the Terminal Disclaimer, any of the claims in the present application would be subject to a double patenting rejection over any of the claims of the cited document. The executed Terminal Disclaimer is merely being submitted in order to render moot the Examiner's rejection and to expedite the present application towards allowance. As noted above, there are adequate and sufficient reasons for traversing the Examiner's rejection without the submission of the Terminal Disclaimer.

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Accordingly, Applicant respectfully requests reconsideration and withdrawal of each outstanding objection and rejections and an indication of the allowability of all the claims pending in the present application. Such action is respectfully requested and is now believe to be appropriate and proper.

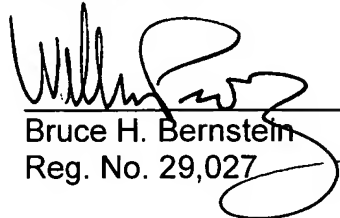
SUMMARY AND CONCLUSION

Applicant has made a sincere effort to place the present application in condition for allowance and believes that he has now done so. Applicant has submitted a new title and has amended several claims to eliminate Examiner-noted informalities therefrom. Additionally, Applicant has traversed the Examiner's provisional double patenting rejections and has also submitted a Terminal Disclaimer to render the rejection moot. Accordingly, Applicant has provided a clear evidentiary basis supporting the patentability of all the claims in the present application and respectfully requests an indication to such effect in due course.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
Nobuaki ABE


Bruce H. Bernstein
Reg. No. 29,027

William Pieprz
Reg. No. 33,630

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GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191